

elect to receive the compensation benefit rather than the survivor annuity, their rights to the latter are terminated and, if the lump-sum credit has not been exhausted, a lump-sum payment will become due under § 19.13. The one exception to this rule occurs when a widow or widower is being paid the balance of a scheduled compensation award under 5 U.S.C. 8107 due the deceased employee. If so, the widow or widower may receive the survivor annuity and compensation award concurrently.

(b) *Election between survivor annuity and social security benefits.* Pursuant to 42 U.S.C. 417 (a) and (e), survivors who are eligible for annuity which is based in part on military service performed by a principal between September 16, 1940, and December 31, 1956, and also for survivor benefits under the Social Security system, may elect to have the military service credited toward the Social Security benefit. In practice, the survivors should apply for both benefits, ask the Department and the Social Security Administration for statements showing the amount of each benefit, and then make their election of where to credit the military service. If Social Security benefits are elected, the rights of *all* survivors to a foreign service annuity are terminated.

#### **§ 19.12 Employment in a Government agency.**

An annuitant who is reemployed by a Federal Government agency may not receive a combination of salary and annuity which exceeds his/her Foreign Service salary at the time of retirement. Refer to § 19.9-4.

#### **§ 19.13 Lump-sum payment.**

##### **§ 19.13-1 Lump-sum credit.**

"Lump-sum credit" is the compulsory and special contributions to a participant's or former participant's credit in the Fund for his/her first 35 years of service plus interest thereon computed from the midpoint of each service period and compounded at four percent annually to the date of separation or December 31, 1976, whichever is earlier, and after such date, for a participant who separates from the Service after completing at least one year of

civilian service and before completing 5 years of such service, at the rate of three percent annually to the date of separation. Interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from the annuitant for recall service or other service performed after the date of separation which forms the basis for annuity.

##### **§ 19.13-2 Share payable to a former spouse.**

A former spouse of a participant or annuitant is entitled to a prorata share of 50 percent of any lump-sum payment authorized to be paid to a former participant under this section who separated from the Service on or after February 15, 1981, unless otherwise directed in a court order or a spousal agreement.

##### **§ 19.13-3 Payment after death of principal.**

If a participant or former participant dies and no claim for annuity is payable, the lump-sum credit is paid to surviving beneficiaries.

##### **§ 19.14 Waiver of annuity.**

An individual entitled to be paid an annuity may, for personal reasons, decline to accept all or any part of the annuity. However, a principal may not waive the portion of his/her annuity authorized to be paid to a former spouse under § 19.7 or § 19.9 or to a beneficiary under § 19.6. An annuity waiver shall be in writing and sent to the Department (PER/ER/RET). A waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

## **PART 20—BENEFITS FOR CERTAIN FORMER SPOUSES**

### **Sec.**

- 20.1 Definitions.
- 20.2 Funding.
- 20.3 Qualifications.
- 20.4 Retirement benefits.
- 20.5 Survivor benefits.
- 20.6 COLA.
- 20.7 Waiver.
- 20.8 Effect on other benefits.
- 20.9 Application procedure.

AUTHORITY: 22 U.S.C. 3901 *et seq.*